

**DEPARTMENT OF STATE REVENUE  
LETTER OF FINDINGS NUMBER: 97-0581  
Corporate Income Tax  
For the Years 1992-1994**

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**ISSUES**

**I. Gross Income Tax-Imposition of Tax**

**Authority:** IC 6-2.1-2-2 (a)(2), IC 6-8.1-5-1 (b), 45 IAC 1.1-1-3.

The taxpayer protests the imposition of gross income tax.

**II. Adjusted Gross Income Tax- Imposition of Tax**

**Authority:** IC 6-3-2-1 (b).

The taxpayer protests the imposition of adjusted gross income tax.

**STATEMENT OF FACTS**

The taxpayer is an out of state manufacturer of components for automobile parts. The taxpayer sold its product through an Indianapolis sales office to an Indiana automobile parts manufacturer. After an audit, the Indiana Department of Revenue, hereinafter referred to as the "department," assessed additional income tax for the tax period 1992-1994. The taxpayer protested the assessment contending that there was inadequate nexus with Indiana to assess gross or adjusted gross income tax. A hearing was held.

**I. Gross Income Tax-Imposition of Tax**

IC 6-2.1-2-2 (a)(2) imposes the Indiana gross income tax on "the taxable gross income derived from activities or businesses or any other sources within Indiana by a taxpayer who is not a resident or a domiciliary of Indiana." All tax assessments are presumed to be accurate and the taxpayer bears the burden of proving that any assessment is incorrect. IC 6-8.1-5-1 (b).

The issue to be determined in this case is whether or not the taxpayer's gross income was derived from activities or sources in Indiana, thus subjecting that income to the Indiana gross income tax.

In the last first year of the audit, the taxpayer had a sales office in Indianapolis. During the last two years of the audit, a related corporation had the sales office in Indianapolis. The sales office

was a single point of contact office for the taxpayer's only Indiana customer. Most contact between the customer and the taxpayer was handled through this office.

The Indianapolis office had two persons assigned to it. The salesman is in the office everyday. The office is used after a field call to communicate data and information to others in the taxpayer's organization. The inside salesman makes sure that all orders are entered in the computer system and assures that all orders were shipped to the right place. The office keeps track of shipment by exception which means that if the division cannot ship the product, the division contacts the sales office and the office forwards the message to the Indiana customer. If there is a problem other than quality control, the customer calls the Indianapolis office which coordinates the resolution of the problem.

All purchase orders go to the Indianapolis sales office where they are approved. This information is checked, entered into the computer system and sent to the appropriate manufacturing division. A hard copy of this order is also mailed to the manufacturing division. Specifications and blueprints are brought to the Indianapolis sales office by the salesman and copies are forwarded to the manufacturing division.

The Indianapolis office has all the Indiana customer files. These include orders kept by sequential number of the parts and drawings of all of the customer's parts. The sales office also serves as a repository for literature, bulletins, data sheets, qualification tests, and their results.

The taxpayer also provides engineering services to the customer at the customer's Indiana plant and at the Indianapolis office.

45 IAC 1.1-1-3 explains that gross income subject to the Indiana gross income tax derives from Indiana activities such as the operation of an office in Indiana, the performance of services in Indiana, and other business activities within the state. The taxpayer's activities in Indiana meet this basic test. The gross income derived from these activities is subject to the Indiana gross income tax.

### **FINDING**

The taxpayer's protest is denied.

## **II. Adjusted Gross Income Tax- Imposition of Tax**

### **DISCUSSION**

Pursuant to IC 6-3-2-1 (b), Indiana imposes an adjusted gross income tax on "that part of the adjusted gross income derived from sources within Indiana of every corporation." As discussed in the first section of this Letter of Findings, the taxpayer has significant activities in Indiana. Therefore, it is subject to the tax on the adjusted gross income from those activities.

### **FINDING**

The taxpayer's protest is denied.